



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 25, 26, and 27, 2010**

FIRST AMENDED

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 25, 26, and 27, 2010.

TUESDAY, MAY 25, 2010—9:00 A.M.

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| (1) | S175204 | Ruiz et al. v. Podolsky (<i>Werdegar, J., not participating; Scotland, J., assigned justice pro tempore</i>) |
| (2) | S171442 | Lu v. Hawaiian Gardens Casino, Inc., et al. |
| (3) | S162570 | Murray v. Alaska Airlines, Inc. |

1:30 P.M.

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| (4) | S160930 | In re Pope (Nathan) on Habeas Corpus |
| (5) | S153917 | People v. Duff (James Edward) |
| (6) | S026408 | People v. Lynch (Franklin) [Automatic Appeal] |

WEDNESDAY, MAY 26, 2010—9:00 A.M.

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| (7) | S158965 | Reid v. Google, Inc. |
| (8) | S174633 | Moore v. Superior Court of Los Angeles Co. (People, Real Party in Interest) |
| (9) | S170778 | People v. Anderson (Eli Jordan) |

1:30 P.M.

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| (10) | S153852 | Ameron International Corp. v. Insurance Co. of the State of Pennsylvania (<i>Corrigan, J., not participating; Rubin, J., assigned justice pro tempore</i>) |
| (11) | S081148 | People v. Jennings (Martin Carl) [Automatic Appeal] |
| (12) | S055415 | People v. Cowan (Robert Wesley) [Automatic Appeal] |

THURSDAY, MAY 27, 2010—9:00 A.M.

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| (13) | S078404 | People v. Brady (Roger Hoan) [Automatic Appeal] |
| (14) | S057321 | People v. Lomax (Darrell Lee) [Automatic Appeal] |

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
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SAN FRANCISCO SESSION
MAY 25, 26, and 27, 2010**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, MAY 25, 2010—9:00 A.M.

(1) *Ruiz et al. v. Podolsky (Werdegar, J., not participating; Scotland, J., assigned justice pro tempore), S175204*

#09-64 Ruiz et al. v. Podolsky, S175204. (C040843; 175 Cal.App.4th 227; Superior Court of Orange County; 07CC08001.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a motion to compel arbitration. This case includes the following issue: Are the nonsignatory adult heirs of a patient bound by a physician-patient arbitration agreement to arbitrate their own wrongful death claims?

(2) *Lu v. Hawaiian Garden Casinos, Inc., et al., S171442*

#09-20 Lu v. Hawaiian Garden Casinos, Inc., et al., S171442. (B194209; 170 Cal.App.4th 466; Superior Court of Los Angeles County; BC286164.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court limited review to the following issue: Does Labor Code section 351, which prohibits employers from taking “any gratuity or a part thereof that is paid, given to, or left for an employee by a patron,” create a private right of action for employees?

(3) *Murray v. Alaska Airlines, Inc., S162570*

#08-99 Murray v. Alaska Airlines, Inc., S162570. (9th Cir. No. 06-15847; 522 F.3d 920; Northern District of California; CV-05-03633-MJJ.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: “Should issue-preclusive effect be given to a federal agency’s investigative findings, when the subsequent administrative process provides the

complainant the option of a formal adjudicatory hearing to determine the contested issues de novo, as well as subsequent judicial review of that determination, but the complainant elects not to invoke his right to that additional process?”

1:30 P.M.

(4) *In re Pope (Nathan) on Habeas Corpus, S160930*

#08-65 *In re Pope (Nathan) on Habeas Corpus, S160930.* (C051564; 158 Cal.App.4th 860; Superior Court of Sacramento County; 05F05526.) Petition for review after the Court of Appeal vacated an order granting a petition for writ of habeas corpus. This case presents the following issue: Does Penal Code section 2933.1, which limits to 15 percent the worktime credits a defendant convicted of a violent felony can earn, apply if the sentence on the violent felony was stayed under Penal Code section 654?

(5) *People v. Duff (James Edward), S153917*

#07-385 *People v. Duff (James Edward), S153917.* (G036562; 151 Cal.App.4th 913; Superior Court of Orange County; 04NF2414.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 2933.2, which provides that “any person who is convicted of murder . . . shall not accrue any credit, as specified in [Penal Code] section 2933,” apply where the defendant was convicted of murder but the sentence was stayed under Penal Code section 654?

(6) *People v. Lynch (Franklin), S026408 [Automatic Appeal]*

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, MAY 26, 2010—9:00 A.M.

(7) *Reid v. Google, Inc., S158965*

#08-24 *Reid v. Google, Inc., S158965.* (H029602; 155 Cal.App.4th 1342; Superior Court of Santa Clara County; CV023646.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Should California law recognize the “stray remarks” doctrine, which permits the trial court in ruling on a motion for summary judgment to disregard isolated discriminatory remarks or comments unrelated to the

decision-making process as insufficient to establish discrimination? (2) Are evidentiary objections not expressly ruled on at the time of decision on a summary judgment motion preserved for appeal?

(8) *Moore v. Superior Court of Los Angeles Co. (People, Real Party in Interest)*, S174633

#09-59 Moore v. Superior Court of Los Angeles Co. (People, Real Party in Interest), S174633. (B198550; 174 Cal.App.4th 856; Superior Court of Los Angeles County; ZM008445.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Can the trial in a commitment proceeding under the Sexually Violent Predator Act be held while the defendant is incompetent?

(9) *People v. Anderson (Eli Jordan)*, S170778

#09-19 People v. Anderson (Eli Jordan), S170778. (D050432; 170 Cal.App.4th 910; Superior Court of San Diego County; SCE262419.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issue: Did the trial court err in awarding restitution to the hospital that treated the victim of defendant's hit-and-run offense?

1:30 P.M.

(10) *Ameron International Corp. v. Insurance Co. of the State of Pennsylvania (Corrigan, J., not participating; Rubin, J., assigned justice pro tempore)*, S153852

#07-363 Ameron International Corp. v. Insurance Co. of the State of Pennsylvania, S153852. (A109755; 150 Cal.App.4th 1050; Superior Court of San Francisco County; 419929.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment on the pleadings in a civil action. This case presents the following issue: Does a proceeding before the United States Department of the Interior Board of Contract Appeals constitute a "suit" such as to trigger insurance coverage under a commercial general liability policy?

(11) *People v. Jennings (Martin Carl)*, S081148 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(12) *People v. Cowan (Robert Wesley)*, S055415 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

THURSDAY, MAY 27, 2010—9:00 A.M.

(13) People v. Brady (Roger Hoan), S078404 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(14) People v. Lomax (Darrell Lee), S057321 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.